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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,084	12/31/2001	Ian Maclean	14587RRUS02U	1982

7590 04/05/2005
James A. Harrison
P.O. Box 670007
Dallas, TX 75367

EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,084	MACLEAN ET AL.	
	Examiner	Art Unit	
	Stephan F Willett	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 2, 9-11, 12-14, 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. GGSN, QOS and RADIUS is/are acronym(s) and/or trademark(s), and thus are unclear

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Veres et al. with Patent Number 6,807,156.

1. Regarding claim(s) 1, 12-13, Veres teaches a wireless network to monitor quality of service (QOS). Veres teaches an application server to transmit data to a mobile terminal, col. 11, lines 4-6. Veres teaches a gateway device to interface to the network using GGSN, col. 6, lines

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48-49 to pass network performance parameters, col. 10, lines 62-65 to the server while a session is being established, col. 5, line 16; col. 8, line 25; col. 13, line 15-18; col. 15, lines 32-37, 39-42, to determine an appropriate QOS, col. 4, lines 30-31. .

2. Regarding claim(s) 2, 18-19, Veres teaches QOS ratings, col. 1, lines 41-52; col. 16, lines 63-65.

3. Regarding claim(s) 3, 8, Veres teaches transfer delay and latency rates, col. 11, lines 14-16.

4. Regarding claim(s) 4, Veres teaches signal data unit error rates, col. 1, line 36; col. 11, line 19.

5. Regarding claim(s) 5, Veres teaches error ratios, col. 13, line 43.

6. Regarding claim(s) 7, Veres teaches traffic congestion rates, col. 14, line 44.

7. Regarding claim(s) 9-11, 14, Veres teaches using remote authentication dial-in user service (RADIUS) as vendor or “applications”, col. 3, lines 6-11.

8. Regarding claim(s) 16, Veres teaches performance data to select servers as “databases”, col. 10, lines 57-61 and “optional ... reporting”, col. 15, lines 57-68.

9. Regarding claim(s) 17, Veres teaches periodic reporting of performance indicators, col. 15, lines 57-60 based on server type such a real-time, col. 10, lines 62-64, TCP server, col. 13, line 52 or web server, col. 15, line 33.

10. Regarding claim(s) 20, Veres teaches evaluating QOS to a service level agreement(SLA), col. 16, lines 53-57 to determine QOS provided, col. 17, lines 2-5.

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11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(a) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim(s) 6 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Veres et al. with Patent Number 6,807,156.

14. Regarding claim 6, the Veres patent discloses the method of the preceding claims. The Veres patent does not explicitly disclose monitoring for jitter. However, Official Notice is taken MPEP 2144.03 (a)) that monitoring jitter is well known in the art to insure complete knowledge about the network performance. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to monitor jitter to obtain the advantages of communicating with a full set of knowledge of the network performance. By the above rational, the claim is rejected.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Forslow reference with Patent Number 6,608,832 is suggested. The other references cited teach numerous other ways to monitor network performance to set-up and/or maintain QOS, thus a close review of them is suggested.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571) 272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.
6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



Stephan Willett

Patent Examiner

March 31, 2005